

COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
CONIFER PARK #6

THIS DECLARATION, made this 22nd day of September, 1980, by Nu-West, Inc., a Colorado Corporation, (hereinafter referred to as the "Declarant")

WITNESSETH:

WHEREAS, the Declarant is the owner of certain real property (hereinafter referred to as the "property") legally described as Conifer Park #6, as recorded in Volume 22 of Plats, Pages 120 through 124 records of Kitsap County, Washington.

WHEREAS, the Declarant intends to create a residential community; and

WHEREAS, Declarant will convey the property to the Homeowners Association certain portions of the property designated as Common Areas; and

WHEREAS, Declarant will convey the property subject to certain protective covenants, conditions, reservations, liens and charges as hereafter set forth to provide for the maintenance of the Common Areas and the preservation and enhancement of the property;

NOW, THEREFORE, Declarant hereby declares that all of the property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the property. These easements, covenants, restrictions and conditions shall run with the property and shall be binding on all parties having or acquiring any right, title or interest in the described properties, or any part thereof, and shall insure to the benefit of each owner thereof.

(1) Definitions.

(a) "Association" shall mean and refer to Conifer Park #6 Homeowners Association, a Washington Non-Profit Association, its successors and assigns.

(b) "Lot" shall mean and refer to any numbered plot of land shown upon the recorded subdivision of the property.

(c) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot within the property, including contract sellers but excluding those having such interest merely as security for the performance of an obligation.

(d) "Common Areas" shall mean and refer to Tract A designated on the recorded subdivision of the property as "Open-space" or "Common Areas".

2. Title to Common Areas. At the time of the conveyance of the first lot, Declarant shall convey to the Association title to the Common Areas.

3. Maintenance of Common Areas. The Association shall maintain and repair the Common Areas including the landscaping of said areas.

4. Improvement to Common Areas. The Association may by vote of 2/3 majority of the total votes cast in person or proxy at a meeting duly called this purpose make such capital improvements to the Common Areas as it deems appropriate to accomplish the purposes of this Declaration.

5. Property Rights.

(a) Owner' Easement of Enjoyment. Each owner shall have a right and an easement of enjoyment in and to the Common Areas and for and for ingress and egress over and through the Common Areas, and such easement shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

(1) The right of the Association to suspend the voting rights and right to use the Common Areas by an owner for any period during which any assessment against his lot remains unpaid and for period not to exceed sixty (60) days for any infraction of its published rules and regulations.

(2) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility, or any other incorporated homeowners association, for the purposes for which such Common Areas was set aside as a distinct and separate portion of the property. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of the members has been recorded.

(b) Delegation of Use. Any owner may delegate, in accordance with the Bi-Laws, his right of enjoyment to the Common Areas to the members of his family, his tenants, or contract purchasers who reside on the property.

6. Membership and Voting Rights.

(a) Every owner of a lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

(b) The owners of each lot shall be entitled to one (1) vote. When more than one person holds an ownership interest in any lot, the vote for such lot shall be exercised as they among themselves determine, except that if the owners are unable to agree how the vote shall be cast, they will lose their right to vote on the matter in question.

7. Creation of Lien and Personal Obligation of Assessments. Declarant, for each lot owned with in the property hereby covenants, and each owner of any lot by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual assessments to be established and collected as hereinafter provided. The annual assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors-in-title unless expressly assumed by them.

8. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the maintenance, repair, and improvement of the Common Area; the payment of taxes and insurance for said area; and reimbursement for actual expenses incurred by the Association; provided, however, that if the Association transfers or dedicates the Common Area as set forth above, the Association may transfer any monies currently held by the Association to the entity receiving the Common Area.

9. Maximum Annual Assessment. Until June 1, 1981, the maximum annual assessment shall be \$43.00[i] per lot.

(a) From and after June 1 1981, the maximum annual assessment may not be materially increased without an affirmative vote of two-thirds (2/3) of the members who are voting in person or by proxy at a meeting duly called for such purpose. A "material increase" shall be an increase which cumulatively, for the Association's fiscal year, increases the annual assessment for common expenses by a percentage in excess of the percentage increase in the Consumer Price Index over the twelve (12) month period ending one (1) month before the start of the fiscal year. The Consumer Price Index shall be that applicable to "All Urban Consumers", published by the Bureau of Labor Statistics for the Seattle-Tacoma SMSA, or if it is terminated or superseded, the equivalent of such Index. For purposes of this assessment, the Associations' fiscal year shall begin on December 1st and end on January 31st of the following year.

(b) The Board of Directors may fix the annual assessments at an amount not in excess of the maximum. The Board of Directors shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment. Written notice of the annual assessment shall be sent to every owner subject thereto.

(c) **The original covenants did not have a "(c)".**

(d) Date of Commencement: Due Dates. The annual assessments provided for herein shall commence as to all lots on the first day of the month following the conveyance of the Common Areas. The first annual assessment shall be adjusted according to the number of months remaining in the fiscal year. Said assessments shall be due and payable on such dates and such other dates thereafter as the Board of Directors shall determine. The Association shall on demand at any time furnish a certificate in writing signed by an officer of the Association for the issuance of such certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

(e) Effect of Nonpayment of Assessments: Remedies of Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) after the due date, the assessment shall bear interest from the date of delinquency at the rate of twelve (12%) Percent per annum, and the Association may bring an action at law against the owner personally obligated to pay same, or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No owner may wave or otherwise escape liability for the assessments provided for herein by nonuse or abandonment of his lot.

(f) Subordination of Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, where the mortgagee of a mortgage of record or other purchaser of a lot obtains possession of the lot as a result of foreclosure of a mortgage, or by deed or assignment of lien of foreclosure, such possessor, his successors and assigns shall not be liable for the share of the common expense or assessment by the Association chargeable to such lot which became due prior to such possession. Such unpaid share of common expenses or assessments shall be deemed to be a common expense collectable from all the owners, including such possessor, his successors and assigns.

10. Architectural Control. No building, fence, wall or other structure shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been first approved by the Architectural Review Committee[[iij](#)] (hereinafter sometimes referred to as the "Committee") as to the quality of workmanship and materials, as to harmony and external design and finish with existing structures, and as to location with respect to topography and finish grade elevations. No fence, wall or hedge shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line unless similarly approved.

11. Committee Membership. The Architectural Review Committee is composed of Gary Rollins, Matt Davis and Patti Helgeson.[[iij](#)] The address of the Committee is: P.O. Box 763, Port Orchard, WA 98366[[iv](#)]. The Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee, nor its designated representative, shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the then record owners of seventy-five percent (75%) of the lots shall have the power through a duly recorded written instrument to change the membership of the Committee or to withdraw from the Committee or restore to it any of its powers and duties.

12. Committee Procedure. The Committee's approval or disapproval as required in these covenants shall be in writing. In the event the Committee, or its designated representative, fails to approve or disapprove with in 30 days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

13. Businesses and Commercial Use of Property Prohibited. No trade, craft, business, profession, commercial or manufacturing enterprise, business or commercial activity of any kind, except the rental of living units to resident tenants, shall be conducted or carried on upon any lot, nor shall any goods, equipment, or materials used in connection with any trade, service or business, wherever the same may be conducted, be kept, stored, dismantled or repaired on or outside of any lot or on any street. Nothing in this provision shall be deemed to prevent the storage of any goods, equipment, or materials during construction. *(Note that the Architectural Review Committee considers such activity shall not infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.)*

14. Nuisance. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done on any lot, which may become an annoyance or nuisance to the residents of the neighborhood.

15. Garbage/Trash. No lot shall be used as a dumping ground for trash, garbage or rubbish of any kind. All garbage, trash and other waste shall be kept in appropriate sanitary containers suitably located and screened from the public view. Yard rakings, rocks, leaves, lawn and shrubbery clippings, dirt and other materials resulting from landscaping work shall not be dumped onto or allowed to remain on streets, driveways or ditches. The removal and disposal of all such materials shall be the sole responsibility of the individual lot owner.

16. Vehicle Parking. For safety reasons, all homeowner's vehicles shall be parked on homeowner's driveway or in a garage/carport. Vehicle parking shall be restricted to operative, licensed, private passenger automobiles only. No commercial vans, trucks, flat bed trailers, or vehicles shall be allowed to remain upon any property unless placed or maintained within an enclosed carport/garage. Recreational vehicles (i.e. campers, boats, travel trailers, or jet ski's) may be stored on the property provided such vehicle is not visible from the road. Recreational vehicles must be parked on a prepared gravel surface or concrete pad and limited to no more than one recreational vehicle per lot. The recreational vehicle cannot exceed thirty feet long from tip of tongue/front bumper to out-drive (in down position)/rear bumper. The recreational vehicle must be kept in a well-maintained condition. Parking and storage of all recreational vehicles shall be approved by the Architectural Review Committee prior to parking and storing on owner's property. The Architectural Review Committee may require removal of any inoperative and/or improperly licensed vehicle or any unsightly vehicle and any other equipment or item improperly stored in the driveways and/or streets of the property. If the same is not removed, the Architectural Review Committee may cause removal at the risk and expense of the owner thereof.[[v](#)] *(Note that the Architectural Review Committee considers no trailer, boat, boat trailer, commercially licensed truck, camper or motor home shall be permitted to remain permanently upon any property within the properties unless placed or maintained within an enclosed carport or garage.)*

17. Residential Use of Temporary Structures Prohibited. No trailer mobile home, basement, tent, shack, garage, barn, camper, out-building, or any structure of a temporary nature shall be erected or placed on any residential lot, or used as a place of residence, temporarily or permanently; provided, however, that this provision shall not be deemed to prevent the placement or use of a construction shack or trailer during construction.

18. Date for Completion of Construction. Any dwelling or structure erected or places on any residential lot shall be completed as to external appearance, including finish painting, and shall be connected to the sewage system, within nine (9) months from the date of commencement of construction, unless some longer period is approved in writing by the Architectural Review Committee.

19. Animals. No animals or reptiles of any kind shall be raised, bred, or kept on any lot, except that dogs, cats, or other household pets may be kept, subject to the rules and regulations adopted by the Architectural Review Committee, provided that they are not kept, bred, or maintained for any commercial purpose; and provided further that any such pet causing or creating a nuisance, or unreasonable disturbance or noise be permanently removed from the property upon three (3) days written notice from the Architectural Review Committee. In no event shall any dog be permitted in any portion of the property, unless on a leash.

20. Signs. No signs shall be erected or maintained on any residential lot in the tract, except that with the written approval of the Architectural Review Committee, the owner or a licensed real estate broker may display not more than one FOR SALE or FOR RENT sign not exceeding eighteen (18) inches in height and twenty-four (24) inches in length on any lot. Notwithstanding the foregoing, the Declarant, its successors or assigns, may display any sign advertising the property during the construction and initial sales period, and erect a permanent entry sign at its desecration.

21. Tree Cutting. There shall be no cutting or damaging of any tree over a four (4) inch diameter breast height with out the written approval of the Architectural Review Committee.

22. Fences. No fences shall be erected between any dwellings without the written approval of the Committee as provided above.

23. Exterior Maintenance and Alterations. All lots, including the buildings, driveways, carports, and other non-landscaping facilities located thereon must be maintained as to not detract from the desirability and value of the surrounding homes. Any alteration or repair to the exterior of any building shall be performed in a prompt and workmanlike manner.

24. Amendments. The covenants and restrictions of this declaration may be amended by an instrument signed by not less than the owners (or if the lot is being sold on contract then the contract purchasers) then owning seventy-five percent (75%) of the lots subject to this declaration or any supplemental declaration. Amendments shall take effect when they have been recorded with the Auditor of Kitsap County.

25. Minimum Square Footage. The ground floor area of the main structure, exclusive of one-story open porches, carports and garages, shall be not less than 900 square feet for a one-story dwelling and not less than 700 square feet for the ground floor area of a dwelling of more than one-story.

26. Roofing Materials. All buildings constructed on the property shall have roofs cedar shakes or shingles or shall have composition roofs of earth tone, black or gray.

27. Drilling and Mining. No oil drilling, oil development operations, oil refining, quarry or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

28. Clothes Lines. No clothes lines shall be located on a lot so as to be visible from the street, a private way, dwelling houses on other lots, or permitted upon any lot.

29. Fuel Tanks. No fuel tank shall be maintained above ground on any lot unless approved by the Architectural Review Committee, and then only if screened from view in a manner satisfactory to the Architectural Review Committee.

30. Owner's Right to Impose Additional Restrictions. Nothing in this declaration shall be deemed to prevent an owner from imposing additional restrictions or more severe restrictions on the use of his lot by any guest, tenant or family member.

31. Enforcement.

(a) In the event the owner of any lot shall fail to maintain his lot or the buildings located thereon in accordance with the provisions of this declaration, then the Architectural Review Committee may, by a majority vote of its members, take such action as is necessary to bring the property into conformity with this declaration. With out limiting the forgoing, the Architectural Review Committee, its agents and employees shall be authorized to enter upon the property to make inspections, repairs, and maintenance at reasonable times and to charge the lot owner (as well as a contract purchaser, if any) for the cost of making any maintenance or repairs necessary to place the lot in conformity with this declaration; provided, however1 that before any repairs or maintenance shall be made by the Architectural Review Committee, its agents or employees, notice of the proposed action shall be personally delivered or sent by certified mail, return receipt requested, to the lot owner (and contract purchaser, if applicable) of the deficiencies and giving the owner (and contract purchaser, if applicable) at least ten (10) calendar days to cure the deficiencies. If the Architectural Review Committee follows the procedures set forth herein, and the deficiencies are not remedied with in ten (10) days, the Architectural may make the repairs and maintenance as aforesaid and the cost of such repairs and maintenance shall constitute a person obligation of the owner (and contract purchaser, if applicable) as well as a lien against the lot upon which the work was performed, prior to all other liens, except only (I) tax liens, and (ii) all sums unpaid on all mortgages of record against such lot, Such lien may be foreclosed by a suit by the Architectural Review Committee in like manner as a mortgage of real property.

(b) The Association or Architectural Review Committee, as appropriate, or any owner or contract purchaser of a lot shall have the right to enforce these covenants, conditions and restrictions by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant, condition or restriction, to restrain violation to require specific performance and/or to recover damages, and against the land to enforce any lien created herein. The failure of the Association, the Architectural Review Committee or any owner to enforce any covenant or restriction contained shall in no event be deemed a wavier of the right to do so thereafter.

32. Term. These covenants, conditions and restrictions are to run with the land and shall be binding on all parties and all persons claiming under them for perpetuity.

33. Severability Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

[\[i\]](#) Changed from \$20.00 to \$43.00 in 1989 by a vote of 2/3 of members.

[\[ii\]](#) Changed from "Architectural Control Committee" to "Architectural Review Committee" in 2002 by a vote of 2/3 of members.

[\[iii\]](#) Original members of the Architectural Review Committee were James F. Miller, Taiji Miyamoto, and Paul G. Ebensteiner.

[\[iv\]](#) On January 1, 1996, the Architectural Review Committee's address changed from P.O. Box 3047, Federal Way, WA 98003 to P.O. Box 763, Port Orchard, WA 98366.

[\[v\]](#) Changed from "16. Vehicle Parking. Parking shall be restricted to operative automobiles. No trailer, boat, boat trailer, truck, camper or motor home shall be permitted to remain upon any property within the properties unless placed or maintained within an enclosed carport or garage. The Architectural Review Committee may require removal of any inoperative and/or improperly licensed vehicle or any unsightly vehicle and any other equipment or item improperly stored in the driveways and/or streets of the property. If the same is not removed, the Architectural Review Committee may cause removal at the risk and expense of the owner thereof. *(Note that the Architectural Review Committee considers no trailer, boat, boat trailer, commercially licensed truck, camper or motor home shall be permitted to remain permanently upon any property within the properties unless placed or*

maintained within an enclosed carport or garage.)” in 2002 by a vote of 2/3 of members.